


Solicitation Document

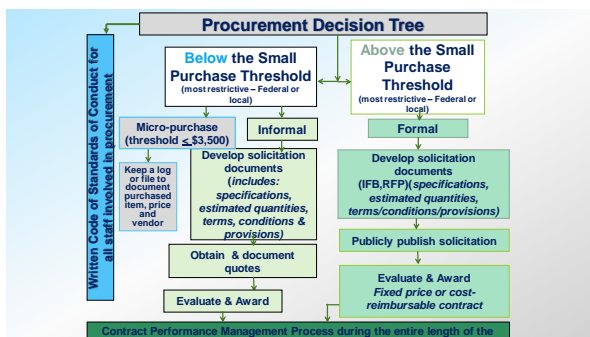
Keerti Patel
Bureau of Nutrition and Health Services
Iowa Department of Education
April 21, 2016



Objectives

- Recap of last webinar
- Describe the nine elements of a solicitation
- USDA Local Procurement Tool for Administrative Review





Cooperative Purchasing

- USDA memo SP 35-2012 Procuring Services of Purchasing Cooperatives, Group Purchasing Organizations, Group Buying Organizations, etc. issued June 12, 2012
- Procurement in the 21st Century pp. 113-145
- Cooperative Buying Group checklist
posted



Bottom line – School Food Authority responsible

What is a solicitation document

A solicitation document is a document used to request potential vendors to offer a quote, bid, or proposal to acquire goods, supplies, and services.



Why is a solicitation document important

- Creates a "level playing field" – all potential vendors receive the same information at the same time. In short promotes full and open competition.
- Allows potential vendors to prepare offers
- Identifies measurable criteria that will allow potential vendors to receive the contract award
- Clearly expresses procedures, terms and conditions so the outcome is in the best interest of the School Food Authority (SFA)
- The SFA receives a sufficient number of responsive offers.

Elements of a Solicitation Document

- The Introduction
- General Information
- Description of the goods and services to be procured
- The minimum qualifications of a vendor
- Minimum standards of a bid/proposal
- Required elements of a bid/proposal
- Contractual terms and conditions
- Submittal requirements
- Criteria by which RFP will be evaluated



Preparing a solicitation document



Solicitation Process – Invitation for Bid



Solicitation document process – Request for Proposal (RFP)



Solicitation Document

Procuring goods and services using the formal methods of procurement

FORMAL

- Competitive Sealed Bids or Invitation for Bids (IFB)
- Competitive Proposals, Competitive Negotiations or Request for Proposal (RFP)

Selection of solicitation document

Best practice

- Standard (template) solicitation documents for each procurement method
 - ensures consistency from one procurement event to another
 - Avoids repetition and omissions
 - Streamlines the process



Selection of solicitation document

Standardized solicitation documents should be customized to:

- provide clarity and completeness of requirements, delivery terms, and any particular conditions
- evaluation and selection criteria
- Special terms and conditions, and
- Contract type

The Introduction



- Full name and address of the School Food Authority (SFA)
- Full name/job title, address, email, and phone of SFA contact
- Name of the RFP/IFB and assigned reference number
- Information about the School Food Service, and how the procurement relates to the goals and objectives
- Intent of the document and a general description of what is being procured

General Information



- Table of Content –each section of the document and any attachments
- Anticipated procurement schedule or calendar of events
- Definitions
- Type of contract that will be awarded and the duration of the contract

Procurement and Contract Type

- Identify the type of contract – is the solicitation an Invitation for Bid (IFB), Request for Proposal (RFP), or a small purchase

- Identify the contract that will be awarded – Fixed Price or Cost Reimbursable with Fixed Fee.

Types of Solicitation

- Line Item – when individual items are solicited and the vendor can bid on each item

- Market Basket Solicitation/Product Grouping Solicitation (lot)- issue more than one solicitation document by grouping similar items (e.g. frozen foods, canned foods, snacks and beverages, pizza, produce, dairy, bread)

- Prime Vendor (all or nothing) – all estimated quantities and pricing are multiplied to determine the price for each item and these added to determine total price by bid.

General Information



Procurement Procedure

- Solicit inquiries from potential vendors

- Form of communication that is preferred

- SFA contact (name, job title, address, email, phone) for inquiries related to the solicitation

- Pre-solicitation meeting or issue an addenda

Pre-solicitation Meeting

- In lieu of issuing an addenda
- Held after the solicitation has been published but before the bid/proposal close date
- Open forum so all potential vendors can have questions related to solicitation answered AND hear the same answers
- Public announcement of solicitation include date, time, and location of the pre-solicitation meeting

General Information

Procurement Procedure

- Right to cancel the procurement or reject all bids/proposals
- Disqualification of potential vendor



General Information

Procurement Procedure

- Proposal withdrawal
- Solicitation Protest Procedures



Descriptions of Goods and Services



Specifications

- Complete, adequate, and realistic specification for the goods and services
- Should describe the minimum standards expected
- When a known brand is used as the quality standard, regulations require to say "brand name or equivalent"

Resource

- Agricultural Marketing Service <http://www.ams.usda.gov/selling-food/product-specs>
 - Product Specifications for USDA Foods
- Choice Plus- A Reference Guide to Food and Ingredients, 1996

Minimum Qualifications of a Vendor



The bid/proposal will identify the minimum qualifications of vendors. These qualifications vary depending on the goods or services to be procured

- *Responsive* processor/distributor is one that responds to a solicitation and potentially enters into a contract with the SFA.
- *Responsible* processor/distributor must be capable of performing successfully under the terms and conditions of the contract, and the moral and business integrity and reliability that will assure good faith performance.

Minimum Standards of a Solicitation

To receive information from each potential vendor in a consistent format, the SFA will include a minimum standard for format of a solicitation document

- Typed proposal, paper size, one-sided, font size, font style
- How envelope should be labeled
- The order in which all proposal materials and any attachments will be organized



Required Elements of a Solicitation

These will differ by SFA but at a minimum include:

- Identification of vendor
- Identification and experience of key personnel
- Identification of prior experience



Contract Terms and Conditions

- General contract terms and conditions –apply to all procurements by the School Food Authority (SFA)
- Specific contract terms and conditions – these are specific to the solicitation



Terms and Conditions and Provisions

Federal Provisions that apply:
 • Appendix II Contract Provisions for 2 CFR Part 200.

- Administrative, contractual, or legal remedies (>federal purchase threshold)
- Termination clause
- Equal Employment Opportunity clause
- Copeland "Anti-Kickback" Act
- Davis-Bacon Act
- Contract Work Hours and Safety Standards Act
- Clean Air Act and Federal Water Pollution Control Act
- Energy Policy and Conservation Act
- Byrd Anti-Lobbying Amendment
- Debarment and Suspension
- Procurement of Recovered Materials

General Requirements

Termination Clause – applies to all contracts in excess of \$10,000

- Termination for Convenience



- The SFA may terminate the awarded contract prior to contract end date, without cause and penalty
- The SFA or the vendor may terminate the awarded contract in the event of either party's failure to fulfill the terms of the contract

Non-Collusion Statement

A statement certifying that the bidder has prepared the bid/proposal independently without collusion, communication, or agreement with another potential bidder and that the contents of the bid/proposal shall not be disclosed.



Equal Opportunity Clause

- 7 CFR Part 15, 7 CFR Part 15a,
- Assurance of Civil Rights Compliance
 - Title VI of the Civil Rights Act of 1964
 - Title IX of the Education Amendments of 1972
 - Section 504 of the Rehabilitation Act of 1973
 - Department of Justice regulations at 28 CFR Part 41
 - Age Discrimination Act of 1975
 - The Americans with Disabilities Act of 1990
 - USDA non-discrimination statement



Contract Work Hours and Safety Standards

Applies to all contracts awarded in excess of \$100,000
40 U.S. C. 3702 of the Contract Work Hours and Safety Standards Act

- Contractor is required to compute the wages of every worker on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the workers is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week

Clean Air Act and Federal Water Pollution Control Act

Applies to contracts in excess of \$150,000

- Awarded vendor will comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q), and
- Federal Water Pollution Control Act (33 U.S.C. 1251-1387)



Energy Policy and Conservation Act

Awarded contractor will comply with mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201)



Debarment and Suspension

Potential vendors will certify that:

Neither the company nor any of its principals have been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department (Executive Orders 12549 and 12689)



Lobbying

Applies to vendors who send solicitation for contracts in excess of \$100,000

Certifies that will not and have not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employees of any agency, a member of Congress, officer or employee of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C 1352



Material Change

The solicitation document should include a statement on what would constitute a material change.

A material change is a change made to a contract after the contract is awarded that alters the terms and conditions of the contract substantially enough, that had other bidders known of these changes in advance, they may have bid differently and more competitively.



State Laws

Smokefree Air Act - Iowa Code 142D



Specific Terms and Conditions

- Insurance
- Property Damage Liability
- Comprehensive General Liability
- Food Recall
- Food Laws
- Biosecurity
- Product Requirements – Products compliance with Standards of Identity, nutrition standards that conform to CNPs, Product Data Sheets, Material Safety Data Sheets, Product Substitutions.

Submission Requirement



- Provide information to potential vendors on how the solicitation should be submitted to be responsive
- A statement that a vendor proposal will be rejected if not in compliance with the submission requirement
- Bulleted list or checklist of the forms that must be submitted to ensure a complete proposal/bid is submitted

Submission Requirement

Submission checklist could include:

- The solicitation document
- Company contacts (name, mailing address, email, phone, fax)
- Hazard Analysis Critical Control Point (HACCP) plan copy
- Product recall plan
- Certifications
 - Code of Conduct
 - Debarment and suspension
 - Lobbying
 - Drug-Free work environment
 - Equal Opportunity Employment Act of 1975 statement
 - Employment verification



Buy American Provision

Buy American Provision will be included in solicitations for goods and services.

- Domestic commodity or product is an agricultural commodity that is produced in the United States and a food product that is processed in the United States substantially using agricultural commodities that are grown domestically.



Geographic Preference

2 CFR 200.319(b)

State or local geographical preferences, are prohibited in the evaluation of bids, except in cases where applicable Federal statutes allow geographic preference.

- SFA cannot explicitly have a policy of purchasing from a local business.

Ways to define local



Geographic Preference

- Geographic preference is allowed to procure unprocessed locally grown or locally raised agriculture products
- Unprocessed means that the product maintains its inherent character.

http://www.fns.usda.gov/sites/default/files/f2s/FactSheet_Geographic_Preference.pdf

Cost Reimbursable Contract

- Allowable costs **net of all discounts, rebates, and other applicable credits** accruing to or received by the vendor will be paid by the School Food Authority (SFA)
- Vendor invoices and bills should identify allowable and unallowable costs and amount of discounts, rebates, and credits
- Only allowable costs identified will be paid from the nonprofit school nutrition account

Competitive Negotiations

Evaluation of Response to Request for Proposals

Two-step process: (written in solicitation document)

- Technical proposal
- Cost proposal
 - Price alone is not the basis for award, but is the primary consideration when deciding who to award the contract



Competitive Negotiations

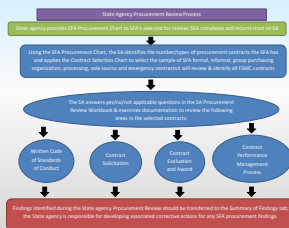
Review and Rank Proposal

Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program with price and other factors considered



- Fixed Price Contract or Fixed Fee Price Contract
- Fixed Price Contract with Economic Price Adjustment
- Cost Reimbursable Contract
- Fixed Price Contract with Prospective Price Redetermination

USDA Local Procurement Tool



USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](http://www.ascr.usda.gov/complaint_filing_cust.html) (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.

Questions

- Keerti Patel, Education Program Consultant
 - Keerti.patel@iowa.gov
 - 515-281-3353

- Cheryl Benson, Education Program Consultant
 - Cheryl.benson@iowa.gov
 - 641-676-4215

Ann Feilmann, Chief
Ann.Feilmann@iowa.gov
 515-281-4757